

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**COALITION PLAINTIFFS' REQUEST
FOR STATUS CONFERENCE**

Coalition Plaintiffs request a status conference with the Court.

A. Background

In its August 15, 2019 Order (Doc. 579) (“the Preliminary Injunction”), this Court granted substantial injunctive relief to Plaintiffs, including relief specifically relating to the November 5, 2019 election. In the Preliminary Injunction, the Court directed the State Defendants “to develop a default plan” using “hand-marked paper ballots” in the event “the new BMD system enacted by the State Legislature may not be completely rolled out and ready in time for operation in time for the March 2020 Presidential Primary elections.” (Doc. 579 at 148). As a part of the development of this “default plan,” the Court ordered the State Defendants to “identify a select number of counties or jurisdictions that agree to implement a

pilot election in November 2019 using hand-marked paper ballots along with optical ballot scanners and voter-verifiable, auditable ballot records.” (*Id.*). The Court also directed the State Defendants to “require all County Election Offices to furnish each precinct location with at least one printout of the voter registration list for that precinct.” (*Id.*, at 150).

2. In its October 23, 2019 Order (Doc. 637) Granting in Part and Denying in Part Coalition Plaintiffs’ Motion to Alter or Amend the Judgment (Doc. 605), the Court denied Coalition Plaintiffs’ request to require the use of paper pollbook backups. The Court, however, stated that it was “potentially willing to consider this request for relief for subsequent election cycles but only *after hearing more concretely from the State regarding pragmatic implementation issues at a short conference or hearing.*” (Doc. 635 at 2-3) (emphasis added).

3. Though the Court’s expressed willingness to consider additional relief related only to the issue of paper pollbooks, Coalition Plaintiffs respectfully submit that the recent experience with the November 2019 elections warrants a short conference to address implementation issues more generally, as well as other scheduling issues in the case.

4. Coalition Plaintiffs therefore submit this request for a status conference to address the implementation and other scheduling issues that are outlined below.

B. Potential Issues to Be Addressed at Status Conference

The Status Conference should address the following issues:

1. Implementation Issues

- a. The use of a paper pollbook backups at each precinct;
- b. The progress the State Defendants have made in developing a backup plan using hand-marked paper ballots, including the success or failure of the Cobb County pilot and the security and operational problems experienced in Cobb County with the new electronic pollbooks and scanners;
- c. The success or failure of the six November 5, 2019 county pilot elections conducted using the new Dimension system, including the BMDs, the new electronic pollbooks, printers, scanners and other equipment and processes;
- d. In light of the experiences in the pilots of the pollbooks, scanners and BMDs, whether the State should be directed to have a contingency plan requiring a sufficient stock of hand-marked paper ballots and paper back up pollbooks available at every polling location for the March 2020 Presidential primaries;

- e. A more general issue relating to implementation and enforcement of the Preliminary Injunction is how these issues should be addressed (for example, through formal motion or rule nisi).

2. New System Preliminary Injunction Schedule

- a. The scheduling of a hearing on Plaintiffs' Motions for Preliminary injunction (Doc. 619 and Doc. 640);
- b. A discovery schedule in advance of the hearing on the Motions for Preliminary Injunction,¹ and,
- c. Any other pending matters.

Respectfully submitted this 13th day of November, 2019.

/s/ Bruce P. Brown

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¹ Discovery related to the newly asserted BMD claims is currently stayed pending resolution of the State's motion to dismiss the Curling Plaintiffs' amended and Coalition Plaintiffs' supplemental complaints. (Doc. 626, at 3).

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown
Bruce P. Brown

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CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2019, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown
Bruce P. Brown